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UNITED STATES BANKRUPTCY COURT, DISTRICT OF MASSACHUSETTS

Proceeding Memorandum/Order of Court

In Re: Tri-City Community Action Program,
Inc. v. Bronder-Giroux et al

Case Number: 17-01035

Ch:

MOVANT/APPLICANT/PARTIES:

#31 Motion of Plaintiff Tri-City Community Action Program, Inc. to Amend Complaint (Jesse Redlener)

#33 Opposition of Defendant Anne Howser (John Chamberlain)

#35 Opposition of Defendant Philip Bronder-Giroux (Matthew Kane)

OUTCOME:

☐ Granted #31 ☐ Denied ☐ Approved ☐ Sustained

☐ Denied ☐ Denied without prejudice ☐ Withdrawn in open court ☐ Overruled

☐ OSC enforced/released

☐ Continued to: _____ For: _____

☐ Formal order/stipulation to be submitted by: _____ Date due: _____

☐ Findings and conclusions dictated at close of hearing incorporated by reference

☐ Taken under advisement: Brief(s) due _____ From _____

Response(s) due _____ From _____

☐ Fees allowed in the amount of: \$ _____ Expenses of: \$ _____

☐ No appearance/response by: _____

☒ DECISION SET OUT MORE FULLY BY COURT AS FOLLOWS:

Upon consideration of

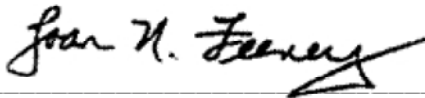
1) the Plaintiff's Motion to Amend Complaint through which it seeks to add two counts for "deepening insolvency" to its existing two-count Complaint; 2) the Opposition of Defendant Anne Howser; 3) the Opposition of Defendant Philip Bronder-Giroux; 4) the Plaintiff's Amended Complaint filed on April 26, 2017; 5) the Plaintiff's proposed First Amended Complaint; 6) the Defendants' Answers to the existing Amended Complaint; 7) the Court's Scheduling Order dated May 30, 2017 and deadlines set forth therein; 8) the entire record of proceedings in this adversary proceeding; 9) the absence of decisions in state and federal courts in Massachusetts recognizing deepening insolvency as a separate cause of action or as a measure of damages apart from other claims for relief, such as claims for breach of fiduciary duty, which the Plaintiff has pled in its existing Amended Complaint; 10) the Plaintiff's failure to further amend its Amended Complaint by the deadline set forth in the Scheduling Order, as well as its failure to seek an extension of time within which to amend its Complaint prior to the expiration of the deadline; and 11) the 22 month period within which this adversary proceeding has been pending,

Now, therefore, the Court denies the Plaintiff's Motion to Amend Complaint. The parties shall file their Joint Pretrial Memorandum in accordance with the Scheduling Order by April 26, 2019.

IT IS SO NOTED:

Courtroom Deputy

IT IS SO ORDERED;



Joan N. Feeney, U.S. Bankruptcy Judge

Dated: 02/20/2019